

**TRUE BLUE AUCTIONS, LLC, and
WAYNE A. DREIBELBIS, JR.,**

Plaintiffs,

V.

ROBERT SCOTT FOSTER, et al,

Defendants.

C.A. No. 11-242 Erie

MEMORANDUM ORDER

Plaintiffs' Complaint was received by the Clerk of Court on October 17, 2012, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. Thereafter, on November 2, 2011, Plaintiffs filed an Amended Complaint [ECF#6].

On January 30, 2012, Defendants filed a Motion to Dismiss Plaintiffs' Amended Complaint [ECF#12]. On March 21, 2012, Plaintiffs filed a Brief in Opposition to Defendants' Motion to Dismiss [ECF#16].

The magistrate judge's Report and Recommendation, filed on April 9, 2012, recommended that the Defendants' Motion to Dismiss the Amended Complaint be granted and this case be dismissed [ECF#17]. The parties were allowed fourteen (14) days from the date of service to file objections. Objections to the Report and Recommendation ("Objections") were filed by Plaintiffs on April 23, 2012 [ECF#18]. In their Objections and Reply, Plaintiffs contend that Magistrate Judge Baxter's Report and Recommendation is incorrect to the extent that she recommended that Defendant Officers be granted qualified immunity as to Plaintiffs' § 1983 claim. (Objections at 13-14). Defendants filed a Response to Plaintiffs' Objections on May 4, 2012 [ECF#20]. Plaintiffs then filed a Reply to Defendants' Response ("Reply") [ECF#22].

Rule 72(b) of the Federal Rules of Civil Procedure provides that the district court may accept, reject or modify the magistrate judge's disposition. Fed. R. Civ. P. 72(b)(3). We accept

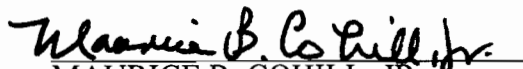
the Report and Recommendation, filed on April 9, 2012, in its entirety.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, Plaintiffs' Objections thereto, Defendants' Response to Plaintiffs' Objections, and Plaintiffs' Reply to Defendants' Response, the following Order is entered:

AND NOW, this 13th day of June, 2012;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendants' Motion to Dismiss the Amended Complaint [ECF#12] is GRANTED and this case is DISMISSED. The Report and Recommendation of Magistrate Judge Baxter, dated April 9, 2012, is adopted as the Opinion of the Court.

The Clerk of Court is directed to mark this case CLOSED.


MAURICE B. COHILL, JR.
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge